

AMENDED IN SENATE MAY 28, 2010

AMENDED IN SENATE APRIL 21, 2010

AMENDED IN SENATE JANUARY 25, 2010

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 289

Introduced by Assembly Member Galgiani

February 13, 2009

An act to amend Sections 185024 and ~~185033 of, and to add Section 185036.5 to 185037 of, and to repeal Sections 185033 and 185035 of,~~ the Public Utilities Code, *and to add Chapter 20.1 (commencing with Section 2704.25) to Division 3 of the Streets and Highways Code,* relating to high-speed rail, ~~making an appropriation therefor,~~ and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 289, as amended, Galgiani. High-speed rail.

Existing law, the California High-Speed Rail Act, creates the High-Speed Rail Authority to develop and implement a high-speed rail system in the state, with specified powers and duties. Existing law, pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, approved by the voters as Proposition 1A at the November 4, 2008, general election, provides for the issuance of \$9.95 billion in general obligation bonds for high-speed rail and related purposes. ~~Existing law provides for appointment of an executive director~~

by the authority, who is exempt from civil service and serves at the pleasure of the authority. *The federal American Recovery and Reinvestment Act of 2009 (ARRA) provides funding for allocation nationally to high-speed rail projects.*

~~This bill would authorize the Governor to appoint up to 5 deputy directors exempt from civil service who would serve at the pleasure of the executive director.~~

~~The federal American Recovery and Reinvestment Act of 2009 (ARRA) provides funding for allocation nationally to high-speed rail projects.~~

~~This bill would appropriate \$2.25 billion to the authority from federal ARRA funds awarded to the state for high-speed rail purposes and would identify the corridors eligible for those funds. The bill would require the authority to take those actions necessary to ensure that the federal funds are used and expended in a manner that meets all applicable federal guidelines, make the most efficient use of available state bond funds, and are expended and used consistent with current state law. The bill would require the authority to report to the Director of Finance and the Legislature relative to the expenditure plan for ARRA funds. The bill would require the authority to include in its business plan an estimate of jobs created in each corridor. The bill would state the intent of the Legislature to establish an inspector general to oversee the fiscal functions of the authority state the intent of the Legislature to appropriate \$230,500,000 to the authority from the bond act in the Budget Act of 2010–11, to be used to provide a dollar-for-dollar match for federal ARRA funds received by the state for high-speed rail purposes. The bill would identify the corridors eligible for ARRA funds, upon appropriation by the Legislature, and require the authority to work with the Federal Railroad Administration to create a plan for expenditure of the federal funds. The bill would set forth the dates for obligation and expenditure of the federal funds and dates for completion of various tasks in that regard. These provisions would not apply to the portion of ARRA funds awarded to the Transbay Terminal project in San Francisco.~~

This bill would revise and recast provisions governing the authority's business plan for high-speed rail development and for the peer review process applicable to the funding plan for each high-speed rail corridor or usable segment under the preappropriation review process. The bill would provide that the preappropriation review process and the preexpenditure review process required for expenditure of bond funds

also apply to expenditure of federal funds. The bill would enact other related provisions.

Existing law provides for appointment of an executive director by the authority, who is exempt from civil service and serves at the pleasure of the authority.

This bill, for purposes of overseeing the ongoing work of the authority in implementing the high-speed rail project, would authorize the Governor to appoint up to 5 additional executive staff exempt from civil service who would serve at the pleasure of the executive director.

The bill would create the Office for Project Controls and Risk Management in the authority and would provide for appointment of an inspector general by the Governor to oversee the fiscal functions of the authority. The inspector general would be required to report annually to the authority and Legislature. The bill would also require the State Auditor to perform periodic audits of the authority's use of ARRA funds.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~yes~~-no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) With the enactment of the federal American Recovery and
- 4 Reinvestment Act (ARRA) (Public Law 111-5) on February 17,
- 5 2009, the federal government made available a grant program in
- 6 which states could apply for up to \$8 billion in federal funds for
- 7 the development of high-speed rail throughout the nation.
- 8 (b) On October 2, 2009, the High-Speed Rail Authority (HSRA)
- 9 submitted to the Federal Railroad Administration (FRA) of the
- 10 United States Department of Transportation an application for
- 11 \$4.73 billion in federal funds to further the development of
- 12 high-speed rail in California.
- 13 (c) On January 28, 2010, the federal government awarded the
- 14 HSRA \$2.25 billion to advance the development of a high-speed
- 15 rail system in this state.
- 16 (d) ~~(1) The HSRA's application was approved for preliminary~~
- 17 ~~engineering, project-level environmental work, mitigation, final~~
- 18 ~~design, and construction for the following four corridors:~~

1 ~~(A) San Francisco to San Jose.~~

2 ~~(B) Merced to Fresno.~~

3 ~~(C) Fresno to Bakersfield.~~

4 ~~(D) Los Angeles to Anaheim.~~

5 ~~(2) In accordance with FRA guidelines, these corridors are~~
6 ~~required to complete environmental review by September 2011~~
7 ~~and to start construction by September 2012, with construction~~
8 ~~completion by September 2017.~~

9 ~~(e) The HSRA's application was approved for preliminary~~
10 ~~engineering, and project-level environmental work for the~~
11 ~~following five corridors:~~

12 ~~(1) Los Angeles to San Diego.~~

13 ~~(2) Los Angeles to Palmdale.~~

14 ~~(3) Palmdale to Bakersfield.~~

15 ~~(4) Merced to San Jose.~~

16 ~~(5) Sacramento to Merced.~~

17 ~~(f)~~

18 ~~(d) The HSRA estimates that 60,277 90,000 jobs will be created~~
19 ~~or maintained by the investment of these ARRA funds, along with~~
20 ~~matching state bond funds, in the dozens of construction projects~~
21 ~~along the eligible corridors throughout California.~~

22 ~~(g)~~

23 ~~(e) It is necessary to provide the HSRA with unambiguous~~
24 ~~statutory authority to receive and expend federal funds awarded~~
25 ~~to the HSRA for the purposes described in its application of~~
26 ~~October 2, 2009, and consistent with the award of those federal~~
27 ~~funds.~~

28 ~~(h)~~

29 ~~(f) Moreover, it is in the state's interest to obligate and expend~~
30 ~~awarded funds as expeditiously as possible and in a manner~~
31 ~~consistent with the voters' expectations when they approved the~~
32 ~~Safe, Reliable High-Speed Passenger Train Bond Act for the 21st~~
33 ~~Century (Chapter 20 (commencing with Section 2704) of Division~~
34 ~~3 of the Streets and Highways Code) in November 2008, in order~~
35 ~~to expand job creation and to complete vital infrastructure~~
36 ~~improvements as soon as possible.~~

37 ~~SEC. 2. The High Speed Rail Authority shall, to the extent~~
38 ~~possible, use the proceed of bonds described in paragraph (1) of~~
39 ~~subdivision (b) of Section 2704.04 of the Streets and Highways~~

1 ~~Code to match federal funds made available from the American~~
2 ~~Recovery and Reinvestment Act of 2009 (Public Law 111-5):~~

3 ~~SEC. 3.~~

4 ~~SEC. 2.~~ Section 185024 of the Public Utilities Code is amended
5 to read:

6 185024. (a) The authority shall appoint an executive director,
7 *exempt from civil service*, who shall serve at the pleasure of the
8 authority, to administer the affairs of the authority as directed by
9 the authority.

10 ~~(b) The executive director is exempt from civil service and shall~~
11 ~~be paid a salary established by the authority and approved by the~~
12 ~~Department of Personnel Administration.~~

13 ~~(c) The executive director may, as authorized by the authority,~~
14 ~~appoint necessary staff to carry out the provisions of this part.~~

15 ~~(d) The~~

16 *(b) For purposes of overseeing the ongoing work of the authority*
17 *in implementing the high-speed train project, the Governor may*
18 *appoint up to five additional employees, exempt from civil service,*
19 *as deputy directors of the authority, who, together with the*
20 *executive director, shall constitute the executive staff of the*
21 *authority, and who shall serve at the pleasure of the executive*
22 *director.*

23 *(c) The compensation of the executive director and the*
24 *additional employees authorized by subdivision (b) shall be*
25 *established by the authority in an amount that is reasonably*
26 *necessary, in the discretion of the authority, to attract and hold a*
27 *person of superior qualifications. To determine the compensation*
28 *for the positions under this subdivision, the authority shall cause*
29 *to be conducted, through the use of independent outside advisers,*
30 *salary surveys of both of the following:*

31 *(1) Other state, regional, and local transportation agencies that*
32 *are most comparable to the authority and its responsibilities.*

33 *(2) Other relevant labor pools.*

34 *The compensation set by the authority shall not exceed the*
35 *highest comparable compensation for a position of that type, as*
36 *determined by the survey. The Department of Personnel*
37 *Administration shall review the methodology used in the salary*
38 *survey.*

39 *(d) The executive director may, as authorized by the authority,*
40 *appoint necessary staff to carry out the provisions of this part.*

1 (e) Any action to be taken under this section by the authority
2 shall require a vote of the board of the authority.

3 SEC. 4. ~~Section 185033 of the Public Utilities Code is amended~~
4 to read:

5 185033. ~~(a) The authority shall prepare, publish, adopt, and~~
6 ~~submit to the Legislature, not later than January 1, 2012, and every~~
7 ~~two years thereafter, a business plan. At least 60 days prior to the~~
8 ~~publication of the plan, the authority shall publish a draft business~~
9 ~~plan for public review and comment. The draft plan shall also be~~
10 ~~submitted to the Senate Committee on Transportation and Housing,~~
11 ~~the Assembly Committee on Transportation, the Senate Committee~~
12 ~~on Budget and Fiscal Review, and the Assembly Committee on~~
13 ~~Budget. The business plan shall identify all of the following: the~~
14 ~~type of service the authority anticipates it will develop, such as~~
15 ~~local, express, commuter, regional, or interregional; a description~~
16 ~~of the primary benefits the system will provide; a forecast of the~~
17 ~~anticipated patronage, operating and maintenance costs, and capital~~
18 ~~costs for the system; an estimate and description of the total~~
19 ~~anticipated federal, state, local, and other funds the authority~~
20 ~~intends to access to fund the construction and operation of the~~
21 ~~system; and the proposed chronology for the construction of the~~
22 ~~eligible corridors of the statewide high-speed train system. The~~
23 ~~business plan shall also include a discussion of all reasonably~~
24 ~~foreseeable risks the project may encounter, including, but not~~
25 ~~limited to, risks associated with the project's finances, patronage,~~
26 ~~right-of-way acquisition, environmental clearances, construction,~~
27 ~~equipment, and technology, and other risks associated with the~~
28 ~~project's development. The plan shall describe the authority's~~
29 ~~strategies, processes, or other actions it intends to utilize to manage~~
30 ~~those risks.~~

31 (b) ~~(1) In addition to the requirements of subdivision (a), the~~
32 ~~business plan shall include, but need not be limited to, all of the~~
33 ~~following elements:~~

34 (A) ~~Using the most recent patronage forecast for the system,~~
35 ~~develop a forecast of the expected patronage and service levels~~
36 ~~for the Phase 1 corridor as identified in paragraph (2) of subdivision~~
37 ~~(b) of Section 2704.04 of the Streets and Highways Code and by~~
38 ~~each segment or combination of segments for which a project level~~
39 ~~environmental analysis is being prepared for Phase 1. The forecast~~
40 ~~shall assume a high, medium, and low level of patronage and a~~

1 ~~realistic operating planning scenario for each level of service.~~
2 ~~Alternative fare structures shall be considered when determining~~
3 ~~the level of patronage.~~

4 ~~(B) Based on the patronage forecast in subparagraph (A),~~
5 ~~develop alternative financial pro formas for the different levels of~~
6 ~~service, and identify the operating break-even points for each~~
7 ~~alternative. Each pro forma shall assume the terms of subparagraph~~
8 ~~(J) of paragraph (2) of subdivision (c) of Section 2704.08 of the~~
9 ~~Streets and Highways Code.~~

10 ~~(C) Identify the expected schedule for completing environmental~~
11 ~~review, and initiating and completing construction for each segment~~
12 ~~of Phase I.~~

13 ~~(D) Identify the source of federal, state, and local funds available~~
14 ~~for the project that will augment funds from the bond act and the~~
15 ~~level of confidence for obtaining each type of funding.~~

16 ~~(E) Identify written agreements with public or private entities~~
17 ~~to fund components of the high-speed rail system, including~~
18 ~~stations and terminals, any impediments to the completion of the~~
19 ~~system, such as the inability to gain access to existing railroad~~
20 ~~rights-of-way.~~

21 ~~(F) Identify alternative public-private development strategies~~
22 ~~for the implementation of Phase I.~~

23 ~~(G) Identify the number of jobs each corridor is estimated to~~
24 ~~create in this state.~~

25 ~~(2) To the extent feasible, the business plan should draw upon~~
26 ~~information and material developed according to other~~
27 ~~requirements, including, but not limited to, the preappropriation~~
28 ~~review process and the preexpenditure review process in the Safe,~~
29 ~~Reliable High-Speed Passenger Train Bond Act for the 21st~~
30 ~~Century pursuant to Section 2704.08 of the Streets and Highways~~
31 ~~Code. The authority shall hold at least one public hearing on the~~
32 ~~business plan and shall adopt the plan at a regularly scheduled~~
33 ~~meeting. When adopting the plan, the authority shall take into~~
34 ~~consideration comments from the public hearing and written~~
35 ~~comments that it receives in that regard, and any hearings that the~~
36 ~~Legislature may hold prior to adoption of the plan.~~

37 ~~SEC. 5. Section 185036.5 is added to the Public Utilities Code,~~
38 ~~to read:~~

39 ~~185036.5. (a) The Legislature hereby appropriates to the~~
40 ~~authority the sum of two billion two hundred fifty million dollars~~

1 ~~(\$2,250,000,000) made available to the state for high-speed rail~~
2 ~~purposes pursuant to Title XII of Division A of the American~~
3 ~~Recovery and Reinvestment Act of 2009 (ARRA). The authority~~
4 ~~may expend these funds for the purposes of developing a project~~
5 ~~or projects on the high-speed rail network consistent with this~~
6 ~~section.~~

7 ~~(b) The federal funds appropriated in subdivision (a) shall be~~
8 ~~available for obligation and expenditure by the dates specified in~~
9 ~~the federal requirements implementing the federal act. The~~
10 ~~authority shall take those actions necessary to ensure the federal~~
11 ~~funds awarded to it (1) are expended and used in a manner that~~
12 ~~meets all applicable federal guidelines, (2) make the most efficient~~
13 ~~use of available state bond funds, including replacing bond funds~~
14 ~~for project expenditure with available federal funds where feasible,~~
15 ~~and (3) are expended and used consistent with state law.~~

16 ~~(c) The authority shall consider actions that (1) maximize job~~
17 ~~creation in California at the earliest feasible time and (2) expedite~~
18 ~~the completion of vital infrastructure projects that improve rail~~
19 ~~safety, mobility, and performance.~~

20 ~~(d) (1) The ARRA funds appropriated in subdivision (a) are~~
21 ~~available for preliminary engineering, project-level environmental~~
22 ~~work, mitigation, final design, and construction for the following~~
23 ~~corridors that were approved by the Federal Railroad~~
24 ~~Administration (FRA), without reference to any individual corridor~~
25 ~~or corridors:~~

26 ~~(A) San Francisco to San Jose.~~

27 ~~(B) Merced to Fresno.~~

28 ~~(C) Fresno to Bakersfield.~~

29 ~~(D) Los Angeles to Anaheim.~~

30 ~~(2) The ARRA funds appropriated in subdivision (a) are also~~
31 ~~available for preliminary engineering and project-level~~
32 ~~environmental work for the following five corridors, without~~
33 ~~reference to any individual corridor or corridors:~~

34 ~~(A) Los Angeles to San Diego.~~

35 ~~(B) Los Angeles to Palmdale.~~

36 ~~(C) Palmdale to Bakersfield.~~

37 ~~(D) Merced to San Jose.~~

38 ~~(E) Sacramento to Merced.~~

39 ~~(e) (1) The authority shall work with the FRA to establish~~
40 ~~priorities among the four corridor programs in paragraph (1) of~~

1 subdivision (d) and, if applicable, for the five corridor programs
2 in paragraph (2) of subdivision (d), and to create a plan for
3 expenditure of ARRA funds appropriated in subdivision (a):

4 (2) No later than 30 days following the submittal of the initial
5 plan for expenditure of ARRA funds to the FRA, the authority
6 shall submit a copy of the plan to the Director of Finance and to
7 the policy committees with jurisdiction over transportation matters
8 and the fiscal committees in both houses of the Legislature:

9 (3) All funds appropriated pursuant to subdivision (a) shall be
10 expended in a manner that is consistent with and subject to the
11 requirements of Section 2704.08 of the Streets and Highways Code
12 applicable to bond proceeds, to the extent those requirements are
13 consistent with the federal conditions applicable to expenditure of
14 the funds:

15 (f) It is the intent of the Legislature to establish an inspector
16 general to oversee the fiscal functions of the authority to ensure
17 public confidence and private investor confidence in the fiscal
18 management and construction of the project. The inspector general
19 would report to the authority and Legislature annually:

20 *SEC. 3. Section 185033 of the Public Utilities Code is repealed.*

21 185033. (a) The authority shall prepare, publish, adopt, and
22 submit to the Legislature, not later than January 1, 2012, and every
23 two years thereafter, a business plan. At least 60 days prior to the
24 publication of the plan, the authority shall publish a draft business
25 plan for public review and comment. The draft plan shall also be
26 submitted to the Senate Committee on Transportation and Housing,
27 the Assembly Committee on Transportation, the Senate Committee
28 on Budget and Fiscal Review, and the Assembly Committee on
29 Budget. The business plan shall identify all of the following: the
30 type of service the authority anticipates it will develop, such as
31 local, express, commuter, regional, or interregional; a description
32 of the primary benefits the system will provide; a forecast of the
33 anticipated patronage, operating and maintenance costs, and capital
34 costs for the system; an estimate and description of the total
35 anticipated federal, state, local, and other funds the authority
36 intends to access to fund the construction and operation of the
37 system; and the proposed chronology for the construction of the
38 eligible corridors of the statewide high-speed train system. The
39 business plan shall also include a discussion of all reasonably
40 foreseeable risks the project may encounter, including, but not

1 limited to, risks associated with the project's finances, patronage,
2 right-of-way acquisition, environmental clearances, construction,
3 equipment, and technology, and other risks associated with the
4 project's development. The plan shall describe the authority's
5 strategies, processes, or other actions it intends to utilize to manage
6 those risks.

7 (b) (1) In addition to the requirements of subdivision (a), the
8 business plan shall include, but need not be limited to, all of the
9 following elements:

10 (A) Using the most recent patronage forecast for the system,
11 develop a forecast of the expected patronage and service levels
12 for the Phase 1 corridor as identified in paragraph (2) of subdivision
13 (b) of Section 2704.04 of the Streets and Highways Code and by
14 each segment or combination of segments for which a project level
15 environmental analysis is being prepared for Phase 1. The forecast
16 shall assume a high, medium, and low level of patronage and a
17 realistic operating planning scenario for each level of service.
18 Alternative fare structures shall be considered when determining
19 the level of patronage.

20 (B) Based on the patronage forecast in subparagraph (A),
21 develop alternative financial pro formas for the different levels of
22 service, and identify the operating break-even points for each
23 alternative. Each pro forma shall assume the terms of subparagraph
24 (J) of paragraph (2) of subdivision (c) of Section 2704.08 of the
25 Streets and Highways Code.

26 (C) Identify the expected schedule for completing environmental
27 review, and initiating and completing construction for each segment
28 of Phase 1.

29 (D) Identify the source of federal, state, and local funds available
30 for the project that will augment funds from the bond act and the
31 level of confidence for obtaining each type of funding.

32 (E) Identify written agreements with public or private entities
33 to fund components of the high-speed rail system, including
34 stations and terminals, any impediments to the completion of the
35 system, such as the inability to gain access to existing railroad
36 rights-of-way.

37 (F) Identify alternative public-private development strategies
38 for the implementation of Phase 1.

39 (2) To the extent feasible, the business plan should draw upon
40 information and material developed according to other

1 requirements, including, but not limited to, the preappropriation
2 review process and the preexpenditure review process in the Safe,
3 Reliable High-Speed Passenger Train Bond Act for the 21st
4 Century pursuant to Section 2704.08 of the Streets and Highways
5 Code. The authority shall hold at least one public hearing on the
6 business plan and shall adopt the plan at a regularly scheduled
7 meeting. When adopting the plan, the authority shall take into
8 consideration comments from the public hearing and written
9 comments that it receives in that regard, and any hearings that the
10 Legislature may hold prior to adoption of the plan.

11 *SEC. 4. Section 185035 of the Public Utilities Code is repealed.*

12 ~~185035. (a) The authority shall establish an independent peer~~
13 ~~review group for the purpose of reviewing the planning,~~
14 ~~engineering, financing, and other elements of the authority's plans~~
15 ~~and issuing an analysis of appropriateness and accuracy of the~~
16 ~~authority's assumptions and an analysis of the viability of the~~
17 ~~authority's financing plan, including the funding plan for each~~
18 ~~corridor required pursuant to subdivision (b) of Section 2704.08~~
19 ~~of the Streets and Highways Code.~~

20 ~~(b) The peer review group shall include all of the following:~~

21 ~~(1) Two individuals with experience in the construction or~~
22 ~~operation of high-speed trains in Europe, Asia, or both, designated~~
23 ~~by the Treasurer.~~

24 ~~(2) Two individuals, one with experience in engineering and~~
25 ~~construction of high-speed trains and one with experience in project~~
26 ~~finance, designated by the Controller.~~

27 ~~(3) One representative from a financial services or financial~~
28 ~~consulting firm who shall not have been a contractor or~~
29 ~~subcontractor of the authority for the previous three years,~~
30 ~~designated by the Director of Finance.~~

31 ~~(4) One representative with experience in environmental~~
32 ~~planning, designated by the Secretary of Business, Transportation~~
33 ~~and Housing.~~

34 ~~(5) Two expert representatives from agencies providing intercity~~
35 ~~or commuter passenger train services in California, designated by~~
36 ~~the Secretary of Business, Transportation and Housing.~~

37 ~~(c) The peer review group shall evaluate the authority's funding~~
38 ~~plans and prepare its independent judgment as to the feasibility~~
39 ~~and reasonableness of the plans, appropriateness of assumptions,~~

1 analyses, and estimates, and any other observations or evaluations
2 it deems necessary.

3 ~~(d) The authority shall provide the peer review group any and~~
4 ~~all information that the peer review group may request to carry~~
5 ~~out its responsibilities.~~

6 ~~(e) The peer review group shall report its findings and~~
7 ~~conclusions to the Legislature no later than 60 days after receiving~~
8 ~~the plans.~~

9 *SEC. 5. Section 185037 of the Public Utilities Code is amended*
10 *to read:*

11 185037. (a) Notwithstanding any other provision of law, for
12 any project along the high-speed rail network, the authority may
13 contract with the department to perform project design and
14 engineering services, including construction inspection services.

15 *(b) The Department of Finance, the department, and the*
16 *authority may enter into agreements, execute documents, manage*
17 *accounts and deposits, and take any other action that may be*
18 *appropriate, in accordance with federal law and rules and*
19 *regulations, to further this section.*

20 ~~(b)~~
21 (c) For purposes of this section, “project design and engineering
22 services, including construction inspection services” means
23 preliminary engineering, planning, prebid services, right-of-way
24 acquisition, preparation of environmental documents, preparation
25 of plans, specifications, and estimates, construction inspection
26 including surveying and materials testing, quality control inspection
27 including highway and utility relocation, and grade separations.

28 *SEC. 6. Chapter 20.1 (commencing with Section 2704.25) is*
29 *added to Division 3 of the Streets and Highways Code, to read:*

30
31 *CHAPTER 20.1. HIGH-SPEED RAIL IMPLEMENTATION AND*
32 *OVERSIGHT*

33
34 *Article 1. General Provisions*

35
36 2704.25. *As used in this chapter, the following terms have the*
37 *following meanings:*

38 (a) “ARRA” means the federal American Recovery and
39 Reinvestment Act of 2009 (Public Law 111-5).

1 (b) “Authority” means the High-Speed Rail Authority created
2 pursuant to Section 185020 of the Public Utilities Code, or its
3 successor.

4 (c) “Bond act” means the Safe, Reliable High-Speed Passenger
5 Train Bond Act for the 21st Century (Chapter 20 (commencing
6 with Section 2704).

7 (d) “Preappropriation review process” means the process, set
8 forth in subdivision (c) of Section 2704.08, to submit a funding
9 plan for bond proceeds for eligible capital costs prior to
10 appropriation.

11 (e) “Preexpenditure review process” means the process, set
12 forth in subdivision (d) of Section 2704.08, to commit appropriated
13 bond proceeds to expenditure on eligible capital costs.

14
15 Article 2. Implementation of the Safe, Reliable High-Speed
16 Passenger Train Bond Act for the 21st Century
17

18 2704.30. It is the intent of the Legislature to appropriate, in
19 the 2010–11 Budget Act, the sum of two hundred thirty million
20 five hundred thousand dollars (\$230,500,000) in state bond funds
21 from the High-Speed Passenger Train Bond Fund to the authority.
22 The state bond funds shall be used to provide a dollar-for-dollar
23 match for federal funds received by the state as provided in Section
24 2704.50. As these state bond funds are expended by the authority,
25 an equivalent amount of federal high-speed rail funds received on
26 a reimbursement basis from the federal government shall be
27 deposited in the High-Speed Passenger Train Bond Fund to replace
28 the expended state bond funds. The deposited federal funds shall
29 be used, upon appropriation, for high-speed rail purposes
30 consistent with federal law and regulations. Not more than 30
31 days after replacing the expended state bond funds with federal
32 funds, the Director of Finance shall notify, in writing, the chair
33 of the committees in each house of the Legislature that consider
34 appropriations and the chair of the Joint Legislative Budget
35 Committee of this action.

36 2704.31. (a) In identifying the estimated full cost of
37 constructing a corridor or usable segment thereof for purposes of
38 subparagraph (C) of paragraph (2) of subdivision (c) of, and
39 subdivision (d) of, Section 2704.08, the amounts identified shall

1 *be adjusted in year-of-expenditure dollars for the year in which*
2 *construction will actually occur.*

3 *(b) The preappropriation review process for a corridor or usable*
4 *segment thereof for eligible capital costs shall apply to the initial*
5 *request for each corridor or usable segment to be funded. The*
6 *process shall also apply to appropriations of federal ARRA funds*
7 *for capital costs. This subdivision does not, however, require*
8 *submission of subsequent funding plans for future year*
9 *appropriations to fund projects of a corridor or usable segment*
10 *that previously was the subject of a funding plan under the*
11 *preappropriation review process.*

12 *(c) The funding plan required under the preappropriation review*
13 *process, in addition to including the items required by*
14 *subparagraphs (A) to (K), inclusive, of paragraph (2) of*
15 *subdivision (c) of Section 2704.08, shall additionally include a*
16 *summary of milestones achieved and any issues identified in that*
17 *regard, and any actions taken to address those issues.*

18
19 *Article 3. Federal High-Speed Rail Funds*
20

21 *2704.50. The sum of two billion two hundred fifty million*
22 *dollars (\$2,250,000,000) in federal funds made available to the*
23 *state for high-speed rail purposes pursuant to Title XII of Division*
24 *A of the American Recovery and Reinvestment Act of 2009 (ARRA)*
25 *shall, upon appropriation by the Legislature, be used for (a)*
26 *planning and engineering for the high-speed train system and (b)*
27 *capital costs, consistent with federal guidelines, rules, and*
28 *regulations, and consistent with the bond act and this chapter.*

29 *2704.51. The authority shall take those actions necessary to*
30 *ensure that federal ARRA funds awarded to the state for high-speed*
31 *rail purposes are expended and used in a manner that meets all*
32 *applicable federal guidelines, rules, and regulations.*

33 *2704.52. (a) The ARRA funds to be appropriated pursuant to*
34 *Section 2704.50 shall be available for preliminary engineering,*
35 *project-level environmental work, mitigation, final design, and*
36 *construction for the following corridors that were approved by*
37 *the Federal Railroad Administration, without reference to any*
38 *individual corridor or corridors:*

39 *(1) San Francisco to San Jose.*

40 *(2) Merced to Fresno.*

1 (3) *Fresno to Bakersfield.*

2 (4) *Los Angeles to Anaheim.*

3 (b) *The ARRA funds to be appropriated pursuant to Section*
4 *2704.50 shall also be available for planning and engineering for*
5 *any of the following corridors, without reference to any individual*
6 *corridor or corridors:*

7 (1) *Sacramento to Stockton to Fresno.*

8 (2) *San Francisco Transbay Terminal to San Jose to Fresno.*

9 (3) *Oakland to San Jose.*

10 (4) *Fresno to Bakersfield to Palmdale to Los Angeles Union*
11 *Station.*

12 (5) *Los Angeles Union Station to Riverside to San Diego.*

13 (6) *Los Angeles Union Station to Anaheim to Irvine.*

14 (7) *Merced to Stockton to Oakland and San Francisco via the*
15 *Altamont Corridor.*

16 2704.53. (a) *The authority shall work with the Federal*
17 *Railroad Administration to establish priorities among the four*
18 *corridors specified in subdivision (a) of Section 2704.52 and to*
19 *create a plan for expenditure of ARRA funds to be appropriated*
20 *pursuant to Section 2704.50. Upon finalizing the expenditure plan,*
21 *the authority shall submit a copy of the plan to the Director of*
22 *Finance and to the policy committees with jurisdiction over*
23 *transportation matters and to the fiscal committees in both houses*
24 *of the Legislature.*

25 (b) *The federal funds to be appropriated pursuant to Section*
26 *2704.50 shall be available for obligation and expenditure by the*
27 *following dates specified in ARRA and its implementing guidelines,*
28 *rules, and regulations:*

29 (1) *Completion of environmental review by September 2011.*

30 (2) *Obligation of funds by September 2012.*

31 (3) *Completion of construction by September 2017.*

32 2704.54. *This article shall not apply to ARRA high-speed rail*
33 *funds awarded to the Transbay Joint Powers Authority for purposes*
34 *of constructing the Transbay Terminal in San Francisco.*

35
36 Article 4. *High-Speed Rail Accountability and Oversight*
37

38 2704.70. (a) *The authority shall prepare, publish, adopt, and*
39 *submit to the Legislature, not later than January 1, 2012, and*
40 *every two years thereafter, a business plan. At least 60 days prior*

1 to the publication of the plan, the authority shall publish a draft
2 business plan for public review and comment. The draft plan shall
3 also be submitted to the Senate Committee on Transportation and
4 Housing, the Assembly Committee on Transportation, the Senate
5 Committee on Budget and Fiscal Review, and the Assembly
6 Committee on Budget.

7 (b) The business plan shall identify or include, but need not be
8 limited to, all of the following:

9 (1) The type of service the authority anticipates it will develop,
10 such as local, express, commuter, regional, or interregional, and
11 a description of the primary benefits the system will provide.

12 (2) A forecast of the infrastructure capital costs, in
13 year-of-expenditure dollars, by segment, for the system and an
14 estimate of capital costs by year of expenditure by major cost
15 category.

16 (3) A forecast of the anticipated operating and maintenance
17 costs by the following categories:

18 (A) Train drivers and crew members.

19 (B) Station services and security.

20 (C) Control center operations.

21 (D) Administration.

22 (E) Power and energy.

23 (F) Track and system maintenance.

24 (G) Trainset maintenance.

25 (H) Infrastructure replacement funding, including trainsets.

26 (4) An estimate and description of the total anticipated federal,
27 state, local, and other funds the authority intends to access to fund
28 the construction and operation of the system. The estimate shall
29 include alternative funding scenarios that reflect the possibility
30 of reduced or delayed funding from planned sources. These
31 scenarios should detail the implications for construction timelines
32 and for bringing revenue-based passenger service on line.

33 (5) The proposed chronology for the construction of the eligible
34 corridors of the statewide high-speed train system.

35 (6) A discussion of all reasonably foreseeable risks the project
36 may encounter, including, but not limited to, risks associated with
37 the project's finances, patronage, right-of-way acquisition,
38 environmental clearances, construction, equipment, and
39 technology, and other risks associated with the project's
40 development along with a description of the authority's strategies,

1 *processes, or other actions it intends to utilize to manage those*
2 *risks.*

3 *(7) Using the most recent patronage forecast for the system, a*
4 *forecast of the expected patronage and service levels for the Phase*
5 *1 corridor as identified in paragraph (2) of subdivision (b) of*
6 *Section 2704.04 and by each segment or combination of segments*
7 *for which a project level environmental analysis is being prepared*
8 *for Phase 1. The forecast shall assume a high, medium, and low*
9 *level of patronage and a realistic operating planning scenario for*
10 *each level of service. Alternative fare structures shall be considered*
11 *when determining the level of patronage.*

12 *(8) Based on the patronage forecast in paragraph (7),*
13 *alternative financial pro formas for the different levels of service,*
14 *and the operating break-even points for each alternative. Each*
15 *pro forma shall assume the terms of subparagraph (J) of paragraph*
16 *(2) of subdivision (c) of Section 2704.08.*

17 *(9) The expected schedule for completing environmental review*
18 *and initiating and completing construction for each segment of*
19 *Phase 1.*

20 *(10) The source of federal, state, and local funds available for*
21 *the project that will augment funds from the bond act and the level*
22 *of confidence for obtaining each type of funding.*

23 *(11) A description of written agreements with public or private*
24 *entities to fund components of the high-speed rail system, including*
25 *stations and terminals, and any impediments to the completion of*
26 *the system, such as the inability to gain access to existing railroad*
27 *rights-of-way.*

28 *(12) A description of alternative public-private development*
29 *strategies for the implementation of Phase 1.*

30 *(13) An estimate of costs for trainsets and an anticipated*
31 *replacement schedule.*

32 *(14) An estimate of potential costs of a minimum revenue*
33 *guarantee and potential payment sources.*

34 *(15) A long-term spending plan for preconstruction activities.*

35 *(16) All ARRA requirements and actions taken to ensure*
36 *compliance with federal law, guidelines, rules, and regulations.*

37 *(17) The number of jobs each corridor is estimated to create in*
38 *this state.*

39 *(c) To the extent feasible, the business plan should draw upon*
40 *information and material developed according to other*

1 requirements, including, but not limited to, the preappropriation
2 review process and the preexpenditure review process in the bond
3 act, set forth in Sections 2704.08 and 2704.31. The authority shall
4 hold at least one public hearing on the business plan and shall
5 adopt the plan at a regularly scheduled meeting. When adopting
6 the plan, the authority shall take into consideration comments from
7 the public hearing and written comments that it receives in that
8 regard, and any hearings that the Legislature may hold prior to
9 adoption of the plan.

10 2704.71. (a) The authority shall establish an independent peer
11 review group for the purpose of reviewing the planning,
12 engineering, financing, and other elements of the authority's plans
13 and issuing an analysis of appropriateness and accuracy of the
14 authority's assumptions and an analysis of the viability of the
15 authority's financing plan, including the funding plan for each
16 corridor required under the preappropriation review process
17 pursuant to Sections 2704.08 and 2704.31.

18 (b) The peer review group shall include all of the following:

19 (1) Two individuals with experience in the construction or
20 operation of high-speed trains in Europe, Asia, or both, designated
21 by the Treasurer.

22 (2) Two individuals, one with experience in engineering and
23 construction of high-speed trains and one with experience in
24 project finance, designated by the Controller.

25 (3) One representative from a financial services or financial
26 consulting firm who shall not have been a contractor or
27 subcontractor of the authority for the previous three years,
28 designated by the Director of Finance.

29 (4) One representative with experience in environmental
30 planning, designated by the Secretary of Business, Transportation
31 and Housing.

32 (5) Two expert representatives from agencies providing intercity
33 or commuter passenger train services in California, designated
34 by the Secretary of Business, Transportation and Housing.

35 (c) The peer review group shall evaluate the authority's funding
36 plans and prepare its independent judgment as to the feasibility
37 and reasonableness of the plans, appropriateness of assumptions,
38 analyses, and estimates, and any other observations or evaluations
39 it deems necessary.

1 (d) The authority shall provide the peer review group any and
2 all information that the peer review group may request to carry
3 out its responsibilities.

4 (e) The peer review group shall report its findings and
5 conclusions to the Legislature no later than 60 days after receiving
6 the plans.

7 (f) The reference in subdivision (c) of Section 2704.08 to Section
8 185035 of the Public Utilities Code shall be deemed to refer to
9 this section.

10 (g) The peer review group is not a state body as that term is
11 defined in Article 9 (commencing with Section 11120) of Chapter
12 1 of Part 1 of Division 3 of Title 2 of the Government Code or a
13 local agency as that term is defined in the Ralph M. Brown Act
14 (Chapter 9 (commencing with Section 54950) of Part 1 of Division
15 2 of Title 5 of the Government Code).

16 2704.72. The Legislature shall exercise oversight over the
17 expenditure of funds available for high-speed rail implementation
18 and construction through the preappropriation review process
19 and the preexpenditure review process, as set forth in Sections
20 2704.08 and 2704.31.

21 2704.73. The Office for Project Controls and Risk Management
22 is hereby created in the authority and shall report directly to the
23 chief executive director of the authority.

24 2704.74. (a) An inspector general shall be appointed by the
25 Governor to oversee the fiscal functions of the authority to ensure
26 public confidence and private investor confidence in the fiscal
27 management and construction of the high-speed train project.

28 (b) The inspector general shall report annually to the authority
29 and the Legislature. The report shall be submitted in compliance
30 with Section 9795 of the Government Code. This subdivision shall
31 be inoperative on January 1, 2016, pursuant to Section 10231.5
32 of the Government Code.

33 2704.75. The requirement pursuant to subdivision (e) of Section
34 2704.04 for the State Auditor to perform periodic audits of the
35 authority's use of bond proceeds shall also apply to the authority's
36 use of proceeds of federal ARRA funds received by the state for
37 high-speed rail purposes. Nothing in this section shall limit the
38 authority of the State Auditor to perform audits of expenditures
39 associated with any corridor or usable segment of the high-speed

1 *train system. Audits conducted by the State Auditor shall be*
2 *independent of any audit conducted internally by the authority.*

3 ~~SEC. 6.~~

4 *SEC. 7.* This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to ensure that California may secure the maximum
9 amount of funds available for high-speed rail development and to
10 provide for necessary staff in that regard as quickly as possible, it
11 is necessary that this act take effect immediately.